

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)		ADVERSARY PROCEEDING NUMBER (Court Use Only)		
PLAINTIFFS Susan Smith	DEFENDANTS Kevin Christopher Sharpton			
ATTORNEYS (Firm Name, Address, and Telephone No.) <small>Joseph P. Rusnak, Esq. UBS Tower, Suite 1700 315 Deaderick Street Nashville, TN 37238 (615) 244-2770</small>	ATTORNEYS (If Known) Timothy A. Davis, Esq. 115 East Main Street Lebanon, TN 37087			
PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input checked="" type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee	PARTY (Check One Box Only) <input checked="" type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input type="checkbox"/> Trustee			
CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) Complaint to determine dischargeability of a particular debt [11 U.S.C. 523(a)(2)(A) and (a)(6)]				
NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)				
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top; border: none;"> FRBP 7001(1) – Recovery of Money/Property <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input checked="" type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny <div style="text-align: center;">(continued next column)</div> </td> <td style="width: 50%; 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<input type="checkbox"/> Check if this case involves a substantive issue of state law	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23			
<input type="checkbox"/> Check if a jury trial is demanded in complaint	Demand \$52,416.75			
Other Relief Sought Money Judgment				

BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR Kevin Christopher Sharpton		BANKRUPTCY CASE NO. 15-02719-KL3-7
DISTRICT IN WHICH CASE IS PENDING Middle	DIVISION OFFICE Nashville	NAME OF JUDGE Keith M. Lundin
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) /s/ Joseph P. Rusnak		
DATE 24 July 2015	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Joseph P. Rusnak	

INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 104, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF TENNESSEE**

IN RE:)	
)	
KEVIN CHRISTOPHER SHARPTON,)	Case No. 15-02719-KL3-7
(SSN XXX-XX-1358))	(Chapter 7)
)	Judge Keith M. Lundin
Debtor.)	
)	
)	
SUSAN SMITH,)	
)	
Plaintiff,)	
)	
v.)	Adv. Proc. No.
)	
KEVIN CHRISTOPHER SHARPTON,)	
)	
Defendant.)	

COMPLAINT TO DETERMINE DISCHARGEABILITY OF A DEBT

The plaintiff, Susan Smith (hereinafter "Smith"), files this adversary proceeding and alleges as follows:

Jurisdiction and Venue

1. This is an adversary proceeding brought by Smith pursuant to Bankruptcy Code section 523(c) and Bankruptcy Rule 7001(6). The United States Bankruptcy Court for the Middle District of Tennessee has jurisdiction of this proceeding pursuant to: (i) 28 U.S.C. § 1334(b) (2015) as a civil proceeding arising under 11 U.S.C. § 523 (2015), arising in and related to a currently pending Chapter 7 case; (ii) 28 U.S.C. § 1334(d) (2015) as a

civil proceeding arising in a currently pending Chapter 7 case; and (iii) 28 U.S.C. § 157 (2015). This is a core proceeding under 28 U.S.C. § 157(b)(2)(I) (2015).

2. Venue is appropriate in the Middle District of Tennessee pursuant to 28 U.S.C. § 1409(a) (2015).

3. This adversary proceeding has been filed within the time allowed by applicable law.

Parties

4. Smith is a citizen and resident of the State of Tennessee.

5. The debtor-defendant, Kevin Christopher Sharpton (the "Debtor"), is an individual Chapter 7 debtor in this Court. Upon information and belief, the Debtor resides at 815 Stone Broke Drive, Lebanon, Tennessee.

Background

6. On April 21, 2015 (the "Petition Date"), the Debtor filed a voluntary petition under Chapter 7 of the Bankruptcy Code. Upon information and belief, the Debtor's meeting of creditors is currently set for August 10, 2015.

7. July 27, 2015 has been fixed as the objection deadline contained in Bankruptcy Rules 4004(a) and 4007(c).

Count One

8. Paragraphs 1-7 are incorporated herein by reference.

9. Prior to the Petition Date, Smith obtained a state court judgment against the Debtor for breach of contract, intentional misrepresentation, fraudulent concealment, and

claims of fraud and misrepresentation under the Tennessee Consumer Protection Act (the “Judgment”).

10. A true and correct copy of the Judgment is attached hereto.

11. The Judgment results in a “debt” owed to Smith as that term is defined in Bankruptcy Code section 101(12).

12. Smith possesses a “claim” against the Debtor as that term is defined in Bankruptcy Code section 101(5).

13. The Debtor obtained money, property, materials, and/or services from Smith.

14. The Debtor obtained such money, property, materials, and/or services from Smith by false pretenses, a false representation, or actual fraud.

Count Two

15. Paragraphs 1-14 above are incorporated herein by reference.

16. The debt owed to Smith is the result of a willful and malicious injury by the Debtor.

17. The Debtor obtained such money, property, materials, and/or services from Smith by a willful and malicious injury to Smith.

Prayer for Relief

WHEREFORE, Smith requests the following:

1. That Judgment be entered declaring the amounts owed to Smith by the Debtor non-dischargeable under Bankruptcy Code section 523; and

2. That Smith be granted any and all other relief to which she may be entitled.

Dated: July 24, 2015.

Respectfully submitted,

/s/ Joseph P. Rusnak
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Page 4 of 4